

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ROBERT COSTELLOE, ET AL

Plaintiff(s)

v.

UNITED SURETY, ET AL

Defendant(s)

Civil No. 97-2334(CC)

CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.RECEIVED & FILED
1999 OCT 29 PM 1:29ORDER SETTING PRETRIAL CONFERENCE

TO THE ATTORNEYS IN THE ABOVE CASE:

You are hereby notified that a Pretrial Conference in the above case will be held on November 18, 1999 at 4:30PM, before the Honorable Judge Carmen Consuelo Cerezo. This conference will be governed by Rule 16 of the Federal Rules of Civil Procedure and Rule 314.3 of the Local Rules of this Court.

It is ORDERED that each party be represented by the attorney who expects to conduct the actual trial and that each attorney be familiar with the rules of pretrial aforementioned.

Counsel are directed to meet informally at least fifteen (15) days prior to the date of the Pretrial to discuss settlement and if settlement cannot be reached, to review, mark, and designate exhibits and depositions, discuss and prepare the proposed joint Pretrial Order.

IT IS FURTHER ORDERED that the proposed Pretrial Order shall be filed with the Clerk of this Court in original and two (2) copies at least seven (7) days before the scheduled date for the Pretrial Conference. Said copies may be made by any means of reproduction as long as they are black, sharp, clear and double-spaced.

IT IS FURTHER ORDERED that if the Pretrial Conference is held before a Magistrate Judge, he will, within the following three (3) days, prepare and submit directly to the Judge to whom the case is assigned a short report stating: (1) what portions of the Pretrial Order were not complied with by the parties; (2) the reasons adduced by the parties for the noncompliance; (3) what action was taken by the Magistrate Judge; and (4) what action is recommended to be taken by the Judge.

IT IS FURTHER ORDERED that failure to comply with this Order Setting Pretrial Conference may result in the imposition of any sanctions that the Court may deem appropriate including the dismissal of the case.

IT IS SO ORDERED.

At San Juan, Puerto Rico, this 28th day of October, 1999.FRANCES RIOS DE MORAN
Clerk of the CourtBy: Frances Rios de Moran
Deputy Clerk

s/c: with attachments:

R. Boneta, H. Saldana, A. Fernandez

RECD.	TO JUDGE
OCT 29 1999	
WB #44	

S A M P L E

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

Plaintiff (s)

v.

Civil no. _____

(Note: To be submitted double spaced
one-sided, and in original plus two copies)

Defendant (s)

PRETRIAL ORDER

This matter having come before the Court at a Pretrial Conference held pursuant to Rule 16 of the Federal Rules of Civil Procedure, 28 U. S. C., and Rule 314.3 of the Local Rules of this Court, the following actions was taken:

Counsel for the Parties

Plaintiff, _____, is represented by attorney _____ (address), (telephone number).

Defendant, _____, is represented by attorney _____ (address), (telephone number).

The conference between the attorneys was held on _____ at _____, and present were: _____

Present at the Pretrial Conference held on _____ at _____, were: _____

Nature of the Action and Jurisdiction

This is an action for (Statement of the subject matter jurisdiction of the Court with specific legal citations). The jurisdiction of the Court is disputed and the question of jurisdiction was decided as follows:

The following stipulations and statements were submitted attached hereto and made part of this Order:

1. A statement of each party's factual version of the case;
2. A statement of each party's legal theory;
3. A statement of all uncontested material facts;
4. A statement of the contested material facts;
5. A statement of the contested issues of law;
6. A statement of any other issues of fact and law deemed to be material, but which the other party or parties deem immaterial;
7. A list of each deposition intended to be used by each party, with designations of portions to be used by the party first offering the same, as well as counter-designations, if any, of the opposing party. Objections to any designated portions not made before or at the pretrial hearing will be deemed waived;
8. A list of the witnesses (except impeaching/rebuttal witnesses)

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each party intends to call at the trial and a brief statement as to their testimony. Indicate if any listed witness needs an interpreter.

9. A list of the expert witnesses each party intends to call at the trial of the action and a brief statement as to the testimony of such expert witness.
10. A stipulation or statement setting forth the qualifications of the expert witnesses to be called by each party;
11. A statement by each party as to the claims or defenses which are to be considered waived or abandoned;
12. A list of all pending motions;
13. An itemized statement of special damages;
14. Indicate need for an interpreter for any of the parties and/or witnesses, and state their names.
15. A list, in alphabetical order, of technical words and phrases that could be used during trial.

The foregoing were modified at the Pretrial Conference as follows: (I if none, recite "none").

Plaintiff(s)

Defendant(s) having no objection thereto, the following exhibits were offered by plaintiff(s), received in evidence and marked as Exhibits as herein indicated:

(Exhibit number, description of the exhibit for ready identification).

The following exhibits were offered by plaintiff(s) and marked as identification. There was reserved to the defendant(s) the right to object to their receipt in evidence on the grounds stated:

(Identification number, description of the exhibit and explanation of the grounds for objection).

Defendant(s)

Plaintiff having no objection thereto, the following exhibits were offered by the defendant(s), received in evidence and marked as Exhibits as herein indicated;

(Exhibit letter- in alphabetical order - and description of the exhibit for ready identification).

The following exhibits were offered by defendant(s) and marked as identification. There was reserved to the plaintiff(s) the right to object to their receipt in evidence on the grounds stated:

(Identification number, description of the exhibit and explanation of the grounds for objection).

The following additional action was taken:

(Amendments to pleading, agreements between the parties, disposition of motions, separation of issues as liabilities and damages, provision for impartial

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medical examination, etc., if necessary).

Limitations and Reservations

A.

The plaintiff(s) is limited to _____ expert witnesses including treating physicians, whose names have been disclosed to the defendant(s).

The defendant(s) is limited to _____ expert witnesses including treating physicians, whose names have been disclosed to plaintiff(s). There is reserved to each of the parties the right, however, to offer rebuttal testimony of other witnesses, if necessary.

B.

There is reserved to each of the parties the right to further supplement the list of witnesses upon application to the Court, and for good cause shows.

C.

There is reserved to each of the parties the right to call such rebuttal witnesses as may be necessary without prior notice thereof to the other party.

D.

The probable length of trial is _____. The suggested dates of trial is _____.

IT IS ORDERED that this Pretrial Order may be modified at the trial of the action, or prior thereto, to prevent manifest injustice. Such modification may be made either on application of counsel for the parties or on motion of the Court.

IT IS FURTHER ORDERED that requests for jury instructions and voir dire shall be submitted to the trial court not less than three (3) working days before the commencement of trial. Instructions from Devitt and Blackmar may be listed by number or must be reproduced on a separate sheet of paper, one instructions to each sheet. There is reserved to counsel for the respective parties the right to submit supplemental requests for instructions during the course of the trial or at the conclusion of the evidence on matters that cannot reasonably be anticipated.

Attorney of Plaintiff(s)

Attorney for Defendants)

APPROVED.

Date: _____

U. S. District Judge (or Magistrate)

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

v.

Defendant

CONSENT TO EXERCISE OF JURISDICTION
BY A UNITED STATES MAGISTRATE JUDGE
AND ORDER OF REFERENCE

Case Number: _____

CONSENT TO EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. 636(c) and Fed.R.Civ.P. 73, the parties in this case hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.

SignaturesDate

Unless otherwise indicated below, any appeal shall be taken to the United States court of appeals for this circuit, in accordance with 28 U.S.C. 636(c) and Fed.R.Civ.P. 73(c).

ELECTION OF APPEAL TO A UNITED STATES DISTRICT JUDGE

(DO NOT EXECUTE THIS PORTION OF THE FORM IF THE PARTIES DESIRE THAT THE APPEAL LIE DIRECTLY TO THE COURT OF APPEALS.)

The parties in this case further consent, by signing below, to take any appeal to a United States district judge, in accordance with 28 U.S.C. 636(c)(4) and Fed.R.Civ.P. 73(d).

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case be referred to the Honorable _____, United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S.C. 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties.

Date _____

United States District Judge _____

**NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE TO EXERCISE
OF JURISDICTION AND APPEAL OPTION**

In accordance with the provisions of Title 28, U.S.C. 636(c), and Fed.R.Civ.P.73, you are hereby notified that a United States magistrate judge of this district court is available to exercise the court's jurisdiction and to conduct any or all proceedings in this case including a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withdraws consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge may be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court. Alternatively, upon consent of all parties, an appeal from a judgment entered by a magistrate judge may be taken directly to a district judge. Cases in which an appeal is taken to a district judge may be reviewed by the United States court of appeals for this judicial circuit only by way of petition for leave to appeal.

Copies of the Form for the "Consent to Exercise of Jurisdiction by a United States Magistrate Judge and Order of Reference" are available from the clerk of the court.